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SUGHRUE MION, PLLC				
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EXAMINER				
SAINT CYR, JEAN D				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/544,403

Applicant(s)

DEI, HIROAKI

Examiner

JEAN Duclos SAINT CYR

Art Unit

2425

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 12, 14, 25, 35 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 12, 14, 25, 35 and 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

Claims 1 and 44 are provisionally rejected on the ground of nonstatutory double patenting over claim 24 of copending Application No. 10/546,448. This is a provisional double patenting rejection since the conflicting claims have not yet been patented

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

Claim 24 of '448 recites, 'means for distributing a plurality of coded moving image data of the same image having different image quality each in a different session..., means for selecting data from among received coded moving image data based on the image quality...', which reads on the claims 1 and 44 of the current application, 'means for multicast or broadcast distributing video encoded data of the same video in a plurality of sessions each having a different compression ratios..., means for selecting one or more of the plurality of sessions of multicast or broadcast distribution according to the compression ratio...'.

Claim Rejections - 35 USC § 112, Second Paragraph

Claim 12 recites the limitation " the video data reception apparatus" in lines 4. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim 14 recites the limitation " the video data reception apparatus" in lines 11. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Response to Amendment

This action is in response to applicant's amendment filed on 11/28/2009. Claims 1, 12, 14, 25, 35 and 44 are still pending in the current application. **This action is made FINAL.**

Response to Arguments

Applicant's argument were fully considered, but they were not persuasive. Applicant argues that the cited references did not disclose selecting a session of multicast or broadcast according to the compression ratio; supplying session information to the receiver, the session information indicating the selected sessions of multicast or broadcast distribution; notifying a receiver of session information indicating the sessions among the plurality of sessions the receiver is permitted to receive.

However, Sato et al disclose when an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20; an optimum compression rate may be chosen from the pre-selected compression rates by selecting one that is the smallest among those larger than the computed compression rate, col.12, lines 23-26.

And Mourad et al disclose The user can select high quality downloadable Content 113, purchase these selections; contract with a broadcast facility to deliver high quality Content 113 to users equipped with the proper equipment, 0052; After the user selects the content to download, the Set-Top Box 1804 may, if necessary, contact a server to perform typical user authentication/credit authorization; 1216; that means authorization process was done for the selected content. The Set-Top Box may display the broadcast intervals to the user and request the selection of a specific interval.1216;that means information related to session information was displayed to the user. Notification from the Content Hosting Site 111 that the Content SC has been sent to the End-User Device,0941. Finally, Mourad et al disclose in fig.9 a notification module interface from transmitting message from head end to end user. As a result, this action is made final.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole

would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,12, 14, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al in view of Mourad et al, US No.20030135464 .

Re claim 1, Sato et al disclose means for multicast or broadcast distributing video encoded data of the same video in a plurality of sessions each having a different compression ratios (The information delivery control unit 24 carries out a predetermined algorithm to compress multicast information stored in the multicast information storage unit 22 so as to achieve the selected compression rate CR. The multicast information compressed in this manner is then delivered from the transceiver 21 to the wireless terminals,col.12, lines 6-11); and

means for selecting one or more of the plurality of sessions of multicast or broadcast distribution according to the compression ratio(When an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20; an optimum compression rate may be chosen from the pre-selected compression rates by selecting one that is the smallest among those larger than the computed compression rate, col.12, lines 23-26).

But did not explicitly disclose wherein the selection is based on a quality of the video encoded data a receiver is authorized to receive;

means for supplying session information to the receiver, the session information indicating the selected sessions of multicast or broadcast distribution.

However, Mourad et al disclose wherein the selection is based on a quality of the video encoded data a receiver is authorized to receive(The user can select high quality

downloadable Content 113, purchase these selections; contract with a broadcast facility to deliver high quality Content 113 to users equipped with the proper equipment, 0052; After the user selects the content to download, the Set-Top Box 1804 may, if necessary, contact a server to perform typical user authentication/credit authorization; 1216; that means authorization process was done for the selected content);

means for supplying session information to the receiver, the session information indicating the selected sessions of multicast or broadcast distribution(The Set-Top Box may display the broadcast intervals to the user and request the selection of a specific interval.1216;that means information related to session information was displayed to the user)

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Mourad into the invention of Sato for the purpose of allowing the system to display or present information related to session information to users and users to select content having high quality according to the capability and authorization of their receiving device.

Re claim 12, Sato et al disclose means for receiving session information sent by a video data distribution device(receives one of sets of the multicast information sent from the information delivery apparatus by using transmission conditions selected based on the measured reception quality, col.4, lines 32-34)

means for receiving video encoded data distributed by the video data distribution device based on said session information(When an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20; col.12, lines 23-26);

means for decoding video encoded data selected (decode the received signal based on the demodulation scheme corresponding to the 16 QAM modulation scheme, col.10, lines 55-56).

But did not explicitly disclose the session information containing information concerning a plurality of sessions of video encoded data distributed by the video data reception apparatus(The Set-Top Box may display the broadcast intervals to the user and request the selection of a specific interval.1216;that means information related to session information was displayed to the user);

selecting video encoded data from the received video encoded data based on the video quality and/or the compression ratio the video data reception device is authorized to receive(The user can select high quality downloadable Content 113, purchase these selections; contract with a broadcast facility to deliver high quality Content 113 to users equipped with the proper equipment, 0052; After the user selects the content to download, the Set-Top Box 1804 may, if necessary, contact a server to perform typical user authentication/credit authorization; 1216; that means authorization process was done for the selected content).

However, Mourad et al disclose the session information containing information concerning a plurality of sessions of video encoded data distributed by the video data reception apparatus(The Set-Top Box may display the broadcast intervals to the user and request the selection of a specific interval.1216;that means information related to session information was displayed to the user);

selecting video encoded data from the received video encoded data based on the video quality and/or the compression ratio the video data reception device is authorized to receive(The user can select high quality downloadable Content 113, purchase these selections; contract with a broadcast facility to deliver high quality Content 113 to users equipped with the proper equipment, 0052; After the user selects the content to

download, the Set-Top Box 1804 may, if necessary, contact a server to perform typical user authentication/credit authorization; 1216; that means authorization process was done for the selected content).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Mourad into the invention of Sato for the purpose of allowing the system to display or present information related to session information to users and users to select content having high quality according to the capability and authorization of their receiving device.

As claim 14, the claimed " a video data distribution device distributing video encoded data of the same video in a plurality of sessions, each session having a different compression ratio...; means for supplying session information to the video data reception device, the session information indicating the selected session..." is composed as the same structural elements as previously discussed with respect to the rejection of claim 1.

Re claim 44, a video data distribution device, a video data reception device, and a transmission path for transmitting information from said video data distribution device to said video data reception device(an information delivery apparatus for delivering multicast information to wireless terminals through wireless routes, col.4,lines 19-21); wherein

said video data distribution device comprises; means for distributing multiple video encoded data of the same video, but having different compression ratios in multiple different sessions (The information delivery control unit 24 carries out a predetermined algorithm to compress multicast information stored in the multicast information storage unit 22 so as to achieve the selected compression rate CR. The multicast information compressed in this manner is then delivered from the transceiver 21 to the wireless terminals,col.12, lines 6-11) ; and

provided that at least one session of distribution is transmitted by multicast or broadcast(transmit the plurality of sets of multicast information, col.3, lines 36-37) ;

and said video data reception device comprises; means for receiving video encoded data distributed in at least one session based on session information notified by said video data distribution device(compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20);

means for selecting data from received video encoded data based on the video quality and/or the compression ratio, and reconstructing the selected data into one piece of video encoded data(When an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20); and

means for decoding the reconstructed video encoded data (decode the received signal based on the demodulation scheme corresponding to the 16 QAM modulation scheme, col.10, lines 55-56).

But did not explicitly disclose means for notifying information said video data reception device of session including information on a session permitted to be distributed to and/or a video quality permitted to be received by said video data reception device.

However, Mourad et al disclose means for notifying information said video data reception device of session including information on a session permitted to be distributed and/or a video quality permitted to be received to said video data reception device(Notification from the Content Hosting Site 111 that the Content SC has been sent to the End-User Device,0941; The user can select high quality downloadable Content 113, purchase these selections; contract with a broadcast facility to deliver high quality Content 113 to users equipped with the proper equipment, 0052).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Mourad into the invention of Sato for the purpose of allowing the system to transmit notification concerning authorized sessions.

Claims 25, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al in view of Mourad et al further in view of Nichols US No.20020163964.

Re claim 25, Sato et al disclose distributing in a plurality of sessions, by said video data distribution device, video encoded data of the same video, having different compression ratios, wherein at least one of the plurality of sessions of distribution is transmitted by multicast or broadcast(When an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20; transmit the plurality of sets of multicast information, col.3, lines 36-37); and

But did not explicitly disclose notifying a receiver of session information indicating the sessions among the plurality of sessions the receiver is permitted to receive; and

controlling the quality of a video received by the receiver by changing the session information.

However, Mourad et al disclose notifying a receiver of session information indicating the sessions among the plurality of sessions the receiver is permitted to receive (Notification from the Content Hosting Site 111 that the Content SC has been sent to the End-User Device,0941; contract with a broadcast facility to deliver high quality Content 113 to users equipped with the proper equipment, 0052).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Mourad into the invention of Sato for

the purpose of allowing the system to transmit notification concerning authorized sessions.

And Nichols et al disclose controlling the quality of a video received by the receiver by changing the session information(allows users to specify a data compression ratio other than the compression ratio and/or compression type with which the multimedia content is broadcast, the CPU will then work in the background to convert the 20:1 MPEG-2 video to the 40:1 compression ratio. For MPEG-2-compressed data this means that the CPU will decompress the 20:1 MPEG-2 data to raw data and then recompress the raw data using the 40:1,0042; that means session information was changed).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to incorporate the teaching of Nichols into the invention of Sato as modified by Mourad for the purpose of allowing the system to control the quality of a video by changing compression of the signal.

As claim 35, the claimed " distributing in a plurality of sessions video encoded data of the same video, but having different compression ratios, wherein at least one sessions is distributed by multicast or broadcast..., notifying a receiver of session information indicating one or more of the plurality of session available for the receiver to receive..." is composed as the same structural elements as previously discussed with respect to the rejection of claim 25.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Duclos Saintcy whose phone number is 571-270-3224. The examiner can normally reach on M-F 7:30-5:00 PM EST.If attempts to reach the examiner by telephone are not successful, his supervisor, Brian Pendleton, can be reach on 571-272-7527. The fax number for the organization where the application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status

information for published applications may be obtained from either private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, dial 800-786-9199(IN USA OR CANADA) or 571-272-1000.

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